

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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UNITED STATES OF AMERICA,

Plaintiff,

v.

HAKIM MOHAMMED WILLIAMS,

Defendant.

Case No. 2:98-cr-0309-KJD-RJJ

ORDER

Hakim Williams moves for compassionate release under the First Step Act due to the spread of the novel coronavirus and its related disease, COVID-19 (ECF No. 320). Williams has served nearly twenty-two years of a life sentence he received for his part in a brazen, take-over style bank robbery in 1998.¹ He is now in his early sixties and suffers from several health conditions, including stage-four chronic kidney disease, prostate cancer, high blood pressure, and pulmonary embolisms. Williams asks the Court to reduce his sentence and allow him to complete the remainder in home confinement. The United States opposes Williams's request (ECF No. 324). Though the government agrees that Williams's motion is properly before the Court and that Williams's health conditions place him at a high risk to contract and suffer from COVID-19, it opposes release because Williams would represent a danger to the community. While the Court is empathetic to Williams's health challenges, it agrees with the government that his criminal history shows that he remains a danger to the community. Accordingly, Williams's emergency motion for compassionate release (ECF No. 320) is denied.

¹ Accompanying this order is an order granting in part Williams's separate petition to vacate his sentence under 28 U.S.C. § 2255. In that order, the Court concluded that Williams lacked sufficient predicate offenses to qualify for 18 U.S.C. § 3559(c)(1)'s mandatory life sentence. As a result, Williams's life sentence has been vacated, and he will be resentenced.

1 The Court and the parties are familiar with the facts of Williams's case. Williams is
 2 incarcerated at FCI Victorville Med. II, where he is serving a life sentence for armed bank
 3 robbery. By all accounts, Williams has been a model inmate during his time at FCI Victorville.
 4 In late 2019, Williams was diagnosed with stage-four chronic kidney disease. D.'s Emergency
 5 Mot. for Comp. Rel. 14, ECF No. 320 ("Emergency Motion"). The disease affects the kidney's
 6 ability to filter waste and fluid from the blood. Stage four is considered serious, and at stage five
 7 a patient will require a transplant or sustained dialysis.² Shortly after Williams learned of his
 8 kidney disease, he was diagnosed with prostate cancer. Emergency Motion at 13. Williams has
 9 begun chemotherapy treatment for the cancer. D.'s Reply 2, ECF No. 325. Williams has also
 10 been diagnosed with and treated for blood clots in his lungs and high blood pressure. Emergency
 11 Motion at 16–17.

12 In early 2020, the novel coronavirus began its spread throughout the United States and
 13 the rest of the world. Its effects have been far reaching and widely publicized.³ While the Court
 14 need not dwell on the havoc wreaked by COVID-19, it is sufficient to note that some individuals
 15 suffer a greater risk of contracting and suffering from the virus. Though the virus has not proven
 16 as deadly for the young and otherwise healthy,⁴ certain populations suffer an increased risk of the
 17 virus's effects. These high-risk individuals include people suffering from diabetes, high blood
 18 pressure, asthma, chronic kidney disease, or any other medical condition that weakens the
 19 immune system.⁵ Williams checks multiple boxes. He suffers from chronic kidney disease, high
 20 blood pressure, and he is receiving chemotherapy for prostate cancer, which weakens his

22 ² , Stages of Chronic Kidney Disease (CKD), American Kidney Fund, (Updated June 17, 2020),
 23 <https://www.kidneyfund.org/kidney-disease/chronic-kidney-disease-ckd/stages-of-chronic-kidney-disease/>.

24 ³ More than 3 million Americans have been infected by the virus and over 120,000 have died nationwide.
 25 See Cases in the U.S., Ctrs. for Disease Control and Prevention, (Updated July 9, 2020),
<https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/cases-in-us.html>.

26 ⁴ See Weekly Updates by Select Demographic and Geographic Characteristics, Ctrs. for Disease Control
 and Prevention, (Updated: July 8, 2020), https://www.cdc.gov/nchs/nvss/vsrr/covid_weekly/index.htm#AgeAndSex.

27 ⁵ People Who Are at Increased Risk for Severe Illness, Ctrs. for Disease Control and Prevention, (Updated
 28 June 25, 2020), https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-at-increased-risk.html?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fneed-extra-precautions%2Fpeople-at-higher-risk.html.

1 immune system. In light of those underlying medical conditions, Williams seeks compassionate
2 release.

3 Generally, the Court may not revise a defendant's sentence absent statutory justification.
4 A court's imposition of sentence represents a final disposition of a criminal case, and there is a
5 benefit to that finality. However, where extraordinary and compelling reasons justify a sentence
6 modification after the fact, the Court enjoys authority to reduce an offender's term of
7 imprisonment, impose probation, or fashion a term supervised release. 18 U.S.C.
8 § 3582(c)(1)(A). Section 3582(c)(1)(A) allows the Court to consider a modification request on
9 motion by the Bureau of Prisons or by the defendant after the defendant has exhausted his
10 administrative remedies. A defendant must first petition the warden for a modification before he
11 may petition the Court. A defendant's request for modification is not timely until he has pursued
12 all available intra-facility appellate rights or thirty days has lapsed since the defendant petitioned
13 the warden for release. Id. Williams submitted his request to FCI Victorville on April 8, 2020
14 and has not received a response. More than thirty days have passed since April 8. Accordingly,
15 the Court has jurisdiction to consider his motion under § 3582(c)(1)(A).

16 Next, Williams must show "extraordinary or compelling reasons" that justify a sentence
17 reduction. Id. § 3582(c)(1)(A)(i). The policy statement to § 3582(c)(1)(A) lists three factors to
18 guide the Court's evaluation of exceptional or compelling reasons. The Court considers whether
19 the defendant: (1) is at least 65 years old; (2) is experiencing a serious deterioration in physical
20 or mental health due to the aging process; and (3) has served at least 10 years or 75 percent of his
21 or her prison term, whichever is less. U.S.S.G. § 1B1.13 cmt. n.1(A). The policy statement is
22 clear, however, that modification is not warranted if the defendant would be a "danger to the
23 safety of any other person in the community." Id. § 1B1.13 cmt. n.1 (extraordinary and
24 compelling reasons exist so long as the defendant is not a danger to the community under 18
25 U.S.C. § 3142(g)).

26 Despite Williams's current health conditions and his increased risk of complications from
27 COVID-19, modification is unwarranted because he would present a danger to the community if
28 released. Williams's criminal history is lengthy and violent. Over a period of six years in the

1 1980s, Williams was involved in two shootings, one of which resulted in the death of the victim.
2 The second incident involved Williams shooting a sleeping man in the back seat of a car and
3 then leaving the man to die. Fortunately, the victim survived that attack, and Williams faced only
4 attempted murder charges. If those two events were not enough, Williams then carried out an
5 armed take-over style bank robbery for which he is serving a life sentence. That robbery
6 occurred only years after Williams was paroled on his attempted murder charge.

7 Despite that criminal history, Williams argues that his behavior while incarcerated shows
8 that he has been rehabilitated and no longer presents a threat to the community. Setting aside that
9 rehabilitation “is not, by itself, an extraordinary and compelling reason” for release (U.S.S.G.
10 § 1B1.13 cmt. n.3), Williams’s history shows that the only time he has not represented a danger
11 to the community has been while he was incarcerated. The short time between three very serious
12 crimes demonstrates that he has not been able remain lawful. Making matters worse, each of
13 Williams’s prior offenses has involved the use of a firearm. Williams’s willingness to unlawfully
14 own—and use—and use a firearm concerns the Court because his health challenges and
15 somewhat advanced age would not prevent him from unlawfully owning or using a firearm again
16 in the future. Accordingly, the Court cannot find that Williams would not present a danger to the
17 community if released.

18 Finally, Williams argues that his risk of contracting COVID-19 is much greater in
19 custody than out of custody. He claims that the BOP has done nothing to stem the spread of the
20 virus, that he cannot socially distance, and that inmates lack access to sanitizing products.
21 However, the Court cannot say that Williams is any more likely to contract the virus inside the
22 facility than outside of it. According to the BOP, thirty-two inmates and two staff members have
23 tested positive for the virus at FCI Victorville Med. II.⁶ There are over 1,200 inmates at the
24 facility. Meanwhile, California has reported record numbers of positive tests over several
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28 ⁶ COVID-19 Cases, Fed. Bureau of Prisons, <https://www.bop.gov/coronavirus/> (last accessed July 10, 2020).

1 weeks.⁷ Kern County, where Williams requests to be released, is no exception.⁸ Therefore, the
2 Court is not persuaded that the BOP's failure to stem the spread of the virus at FCI Victorville
3 Med. II justifies release here.

4 Accordingly, IT IS HEREBY ORDERED that Hakim Williams's Emergency Motion for
5 Compassionate Release Under the First Step Act (ECF No. 320) is **DENIED**.

6 Dated this 10th day of July, 2020.

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Kent J. Dawson
United States District Judge

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27 ⁷ COVID-19 Updates, Cal. Dept. of Pub. Health,
<https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/Immunization/ncov2019.aspx> (last accessed July 10, 2020).

28 ⁸ COVID-19 Dashboard, Kern Cty. Pub. Health Svcs. (updated July 10, 2020),
https://kernpublichealth.com/covid-19_dashboard/ (also reporting an increase in positive cases).